

June 29, 1955.

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SEP 22 1998

Admiral C. A. Brinkmann
Director of Civil Defense
State House
Concord, New Hampshire

CONCORD, N.H.

Dear Admiral Brinkmann:

You have requested ruling concerning matters raised by a June 24, 1955 letter from William T. Evans, Local Director of Civil Defense, to Robert C. Violette, City Manager of Portsmouth, New Hampshire.

The Civil Defense Act, chapter 224 of the Laws of 1953 is specific that the existence of a state of civil defense emergency is only after the existence of such emergency has been either, (1) proclaimed by the Governor if the Governor finds that an attack upon the United States has occurred, or is anticipated in the immediate future so that ~~an attack~~ of major proportions has actually occurred within this state and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of the Civil Defense Law, or, (2) by resolution of the House or Senate if the Legislature in such resolution finds the same necessary preliminary conditions.

- (a) The Mayor of Portsmouth is not authorized to declare a state of emergency and request Civil Defense services.
- (b) The City Council of Portsmouth has no authority to declare such state of emergency and request Civil Defense services.
- (c) The Local Director has no power to declare a state of emergency.

C O P Y

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The Civil Defense organization is a state organization and the local units are component parts of this state's organization. While it is true that they represent a pool of manpower skilled in techniques which are available to their communities in local emergencies, purely local emergencies are not matters of state civil defense concern but are matters of purely local concern unless the emergency threatens to become beyond local control when liaison with the state will result in appropriate action if required.

Civil Defense personnel may not be ordered as such to perform purely local emergency duties except as pure volunteers individually volunteering or called upon as citizens of their communities individually.

Local communities may not impose upon the state the liabilities attendant upon use of Civil Defense personnel as such for purely local emergencies.

I appreciate your reference to this question which appears to point up a lack of local understanding of the local community's and Local Director's part in Civil Defense. A careful reading of chapter 228 of the Laws of 1953, the present Civil Defense Law, particularly sections 5 and 7 make the limitations of local authority clear.

Very truly yours,

George F. Nelson
Assistant Attorney General

GPN:L